

DEC 12 2005**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERT COMITO,

Defendant - Appellant.

No. 03-10529

D.C. No. CR-02-00574-LDG

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Nevada
Lloyd D. George, District Judge, Presiding

Submitted December 5, 2005^{**}

Before: GOODWIN, W. FLETCHER and FISHER, Circuit Judges.

Robert Comito appeals the 115-month sentence imposed following his guilty plea conviction for conspiracy and wire fraud, in violation of 18 U.S.C. §§ 371 and 1343. We have jurisdiction pursuant to 28 U.S.C. § 1291.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We remand the sentence for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc), and because we do, we need not review the issues concerning compliance with Federal Rule of Criminal Procedure 32(i)(3)(B) or whether Comito waived his challenge to an enhancement for his role in the offense.

REMANDED.